

No. 7  
STATE OF MICHIGAN  
**Journal of the Senate**  
94th Legislature  
REGULAR SESSION OF 2008

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Senate Chamber, Lansing, Tuesday, January 29, 2008.

10:00 a.m.

The Senate was called to order by the President, Lieutenant Governor John D. Cherry, Jr.

The roll was called by the Secretary of the Senate, who announced that a quorum was not present.

Allen—present  
Anderson—present  
Barcia—present  
Basham—present  
Birkholz—present  
Bishop—present  
Brater—present  
Brown—present  
Cassis—present  
Cherry—present  
Clark-Coleman—present  
Clarke—present  
Cropsey—present

Garcia—excused  
George—present  
Gilbert—present  
Gleason—present  
Hardiman—present  
Hunter—present  
Jacobs—present  
Jansen—present  
Jelinek—present  
Kahn—present  
Kuipers—present  
McManus—present  
Olshove—present

Pappageorge—present  
Patterson—present  
Prusi—present  
Richardville—present  
Sanborn—present  
Schauer—present  
Scott—present  
Stamas—present  
Switalski—present  
Thomas—present  
Van Woerkom—present  
Whitmer—present

Pastor Stephen Williams of Grace Temple Church of God in Christ of Albion offered the following invocation:

Father, we thank You today for this occasion and for the opportunity that we have to be able to gather here and to pray Your blessings upon this group and upon this state and upon this assembly. We pray, Lord, that we recognize that You are the God who created all of mankind. You are the Creator; You are the God who said that Heaven and Earth belongs to You.

We pray that You would give wisdom today; that You would be the source of all our well-being and all of our understanding; that we would value Your knowledge; and that we would seek to have wisdom that You have promised through Your Son Jesus Christ.

We pray today that every decision and every understanding that will come forth will be authored by You and that You would be honored in those things that are done.

We pray and give thanks now in the precious name of Jesus. Amen.

The President, Lieutenant Governor Cherry, led the members of the Senate in recital of the *Pledge of Allegiance*.

### Recess

Senator Cropsy moved that the Senate recess subject to the call of the Chair.  
The motion prevailed, the time being 10:04 a.m.

10:23 a.m.

The Senate was called to order by the President, Lieutenant Governor Cherry.

During the recess, Senators Kahn, Brater, Clarke, McManus, George, Cassis, Patterson, Pappageorge, Stamas, Jansen, Kuipers, Van Woerkom, Allen, Hardiman, Bishop, Birkholz, Richardville, Brown, Barcia, Jelinek and Hunter entered the Senate Chamber.

A quorum of the Senate was present.

### Motions and Communications

Senator Cropsy moved that Senator Garcia be excused from today's session.  
The motion prevailed.

The following communication was received and read:  
Office of the Auditor General

January 23, 2008

Enclosed is a copy of the following audit report:  
Performance audit of the Huron Valley Complex, Department of Corrections.

Sincerely,  
Thomas H. McTavish, C.P.A.  
Auditor General

The audit report was referred to the Committee on Government Operations and Reform.

The following communication was received:  
Department of Treasury

January 15, 2008

Please find attached one copy of the Personal Property Audit Quarterly Report for the period October 1, 2007 through December 31, 2007. The report is required by Public Act 127 of 2007, the General Government Appropriations Act. Section 947 of the Act provides, in part, as follows:

- (1) Of the \$5,267,400.00 included in part 1 for the revenue enhancement program, \$4,767,400.00 shall be used for revenue collection enhancement activities including auditing functions.

(2) The department of treasury shall submit quarterly progress reports to the senate and house of representatives standing committees on appropriations subcommittees on general government and the senate and house fiscal agencies, regarding personal property tax audits funded under subsection (1). The report shall include the number of audits, revenue generated, and number of complaints received by the department related to the audits.

Sincerely,  
 Frederick Headen, Director  
 Bureau of Local Government Services

The communication was referred to the Secretary for record.

The Secretary announced that the following House bills were received in the Senate and filed on Thursday, January 24:

**House Bill Nos. 4257 5638**

The Secretary announced that the following official bills and joint resolution were printed on Thursday, January 24, and are available at the legislative website:

**Senate Bill Nos. 1049 1050**

**House Bill Nos. 5663 5664**

**House Joint Resolution NN**

The Secretary announced that the following official bills were printed on Friday, January 25, and are available at the legislative website:

**Senate Bill Nos. 1057 1058 1059 1060 1061 1062**

**House Bill Nos. 5665 5666 5667 5668 5669**

By unanimous consent the Senate proceeded to the order of

#### **Messages from the House**

Senator Cropsey moved that consideration of the following bills be postponed for today:

**Senate Bill No. 53**

**House Bill No. 4120**

**Senate Bill No. 511**

**House Bill No. 4507**

**Senate Bill No. 388**

**Senate Bill No. 868**

**Senate Bill No. 92**

The motion prevailed.

#### **Senate Bill No. 111, entitled**

A bill to amend 1959 PA 243, entitled "An act to define, license and regulate trailer coach parks; to prescribe the powers and duties of the state health commissioner and other state and local officers; to provide for the levy and collection of specific taxes on occupied trailers in trailer coach parks and the disposition of the revenues therefrom; to provide remedies and penalties for the violation of this act; and to repeal certain acts and parts of acts," by amending section 41 (MCL 125.1041).

The House of Representatives has passed the bill and ordered that the bill be given immediate effect.

The question being on concurring in the committee recommendation to give the bill immediate effect,

The recommendation was concurred in, 2/3 of the members serving voting therefor.

The bill was referred to the Secretary for enrollment printing and presentation to the Governor.

#### **Senate Bill No. 577, entitled**

A bill to regulate certain persons building certain residential structures; to provide for certain disclosures and prescribe certain limitations regarding the transfer of that residential structure; and to provide for remedies and penalties.

The House of Representatives has substituted (H-1) the bill.

The House of Representatives has passed the bill as substituted (H-1) and ordered that it be given immediate effect.

Pending the order that, under rule 3.202, the bill be laid over one day,  
 Senator Cropsey moved that the rule be suspended.  
 The motion prevailed, a majority of the members serving voting therefor.  
 The question being on concurring in the substitute made to the bill by the House,  
 The substitute was concurred in, a majority of the members serving voting therefor, as follows:

**Roll Call No. 21****Yeas—37**

Allen	Clark-Coleman	Jansen	Richardville
Anderson	Clarke	Jelinek	Sanborn
Barcia	Cropsey	Kahn	Schauer
Basham	George	Kuipers	Scott
Birkholz	Gilbert	McManus	Stamas
Bishop	Gleason	Olshove	Switalski
Brater	Hardiman	Pappageorge	Thomas
Brown	Hunter	Patterson	Van Woerkom
Cassis	Jacobs	Prusi	Whitmer
Cherry			

**Nays—0****Excused—1**

Garcia

**Not Voting—0**

In The Chair: President

The question being on concurring in the committee recommendation to give the bill immediate effect,  
 The recommendation was concurred in, 2/3 of the members serving voting therefor.  
 The bill was referred to the Secretary for enrollment printing and presentation to the Governor.

**Third Reading of Bills**

Senator Cropsey moved that the following bill be placed at the head of the Third Reading of Bills calendar:  
**Senate Bill No. 568**  
 The motion prevailed.

The following bill was read a third time:

**Senate Bill No. 568, entitled**

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending section 30 (MCL 206.30), as amended by 2007 PA 154.

The question being on the passage of the bill,  
 The bill was passed, a majority of the members serving voting therefor, as follows:

**Roll Call No. 22****Yeas—37**

Allen	Clark-Coleman	Jansen	Richardville
Anderson	Clarke	Jelinek	Sanborn
Barcia	Cropsey	Kahn	Schauer
Basham	George	Kuipers	Scott
Birkholz	Gilbert	McManus	Stamas
Bishop	Gleason	Olshove	Switalski
Brater	Hardiman	Pappageorge	Thomas
Brown	Hunter	Patterson	Van Woerkom
Cassis	Jacobs	Prusi	Whitmer
Cherry			

**Nays—0****Excused—1**

Garcia

**Not Voting—0**

In The Chair: President

The Senate agreed to the title of the bill.

By unanimous consent the Senate proceeded to the order of

**General Orders**

Senator Cropsey moved that the Senate resolve itself into the Committee of the Whole for consideration of the General Orders calendar.

The motion prevailed, and the President, Lieutenant Governor Cherry, designated Senator George as Chairperson.

After some time spent therein, the Committee arose; and, the President, Lieutenant Governor Cherry, having resumed the Chair, the Committee reported back to the Senate, favorably and with a substitute therefor, the following bill:

**Senate Bill No. 591, entitled**

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," (MCL 600.101 to 600.9947) by adding chapter 30. Substitute (S-3).

The Senate agreed to the substitute recommended by the Committee of the Whole, and the bill as substituted was placed on the order of Third Reading of Bills.

By unanimous consent the Senate returned to the order of

**Motions and Communications**

Senator Cropsey moved that rule 3.902 be suspended to allow guests attending the State of the State Joint Convention admittance to the Senate floor, including the House escort committee to use the center aisle.

The motion prevailed, a majority of the members serving voting therefor.

By unanimous consent the Senate proceeded to the order of

**Resolutions**

Senator Cropsey moved that consideration of the following resolution be postponed for today:

**Senate Concurrent Resolution No. 22**

The motion prevailed.

**Senate Resolution No. 134.**

A resolution to memorialize the United States Congress and United States Food and Drug Administration (FDA) to establish stricter standards for the drug approval process.

(This resolution was offered on January 22, rule suspended, and consideration postponed. See Journal No. 4, p. 67.)

The question being on the adoption of the resolution,

Senator Gleason offered the following amendment:

1. Amend the third Whereas clause, line 7, after “public.” by striking out the balance of the line through “take” on line 8 and inserting “We pledge, as the Michigan Legislature, to continue ongoing efforts to remove current statutory obstacles which hinder the ability of Michigan residents to obtain just compensation for injuries caused by FDA-approved drugs.”.

The question being on the adoption of the amendment,

Senator Thomas requested the yeas and nays.

The yeas and nays were ordered, 1/5 of the members present voting therefor.

The amendment was not adopted, a majority of the members not voting therefor, as follows:

**Roll Call No. 23****Yeas—17**

Anderson	Clark-Coleman	Jacobs	Scott
Barcia	Clarke	Olshove	Switalski
Basham	Gleason	Prusi	Thomas
Brater	Hunter	Schauer	Whitmer
Cherry			

**Nays—20**

Allen	Cropsey	Jelinek	Patterson
Birkholz	George	Kahn	Richardville
Bishop	Gilbert	Kuipers	Sanborn
Brown	Hardiman	McManus	Stamas
Cassis	Jansen	Pappageorge	Van Woerkom

**Excused—1**

Garcia

**Not Voting—0**

In The Chair: President

The question being on the adoption of the resolution,  
The resolution was adopted.

Senators Whitmer and Gleason asked and were granted unanimous consent to make statements and moved that the statements be printed in the Journal.

The motion prevailed.

Senator Whitmer’s statement is as follows:

I’ve been watching with great curiosity this particular resolution come on and off the calendar and get passed. I was wondering if and when we would ever take it up because it creates some questions in my mind. Now I am reading this and thinking, let me get this straight: Our drug immunity law is based on the FDA standard. The rationale behind that public policy is that the FDA standard is strict enough to protect our consumers, our citizens here in Michigan.

Now instead of taking action like the other 49 states in the country have to protect our citizens, we are once again advocating and asking Congress to enact a stricter standard because we don't think their standard is strict enough, but that is our standard.

So it leaves you to conclude that our law is not sufficient to protect Michigan citizens. I think that is exactly what we have been saying for the better part of three years on this issue. Our law is not strict enough to protect Michigan citizens. Do we want stricter standards? Absolutely, but let's also resolve to not wait on Congress to protect our citizens. Let's take action to give Michigan victims the same rights victims in 49 other states have to protect them.

This amendment says that is just what we will do. I ask that you support this amendment.

Senator Gleason's statement is as follows:

I think the attempt of the previous speaker and the sponsor of the resolution is in good favor; however, I believe that we have to make an alteration to this. In regards to the terminology, it says that in this way Michigan's tort law and strict FDA standards will ensure that Michigan's residents can have confidence in the drugs and medications that they take. We not only need confidence in the medications that we take, but we need legal recourse when the medications go beyond the FDA and end up in the bodies of our Michigan citizens.

I know firsthand, June Godlesky who lives very near me in Flushing took Vioxx for three years. She met with an attorney and the attorney told her to get a remedy that it would take much travel and much money; that she could not utilize a court here in Michigan; that she must travel—as sick as she was and still is—to a distant state; that she must go to a state that had better laws and more concerns for their citizens than we did.

There were very horrendous efforts undertaken by those prior to us being here over a decade ago, but I have waited patiently for three years now to ask for a remedy. If someone would be kind enough to tell me where I can advise June Godlesky and her family to go for legal recourse, I would sure like to hand that information over to her.

There are two issues here we are dealing with. The FDA does have requirements to authorize the marketing and the availability of drugs on the American market and our citizens individually, but we also since this country was founded have been offered legal recourse under several situations that harm our people in this state. We no longer have that right.

Now people will tell us, and they readily do when they say that we have legal recourse, not one person can tell us where to send these folks who are harmed here in Michigan, except they had to be part of a lawsuit. They could not join a lawsuit after November 9, even though they are still ill and some have attributed these drugs to the death of family members.

So I would say that we need to pass this amendment to make sure that our citizens are made whole. We should not be denying our citizens the right to go to court. We have three branches of government and the reason that is is because sometimes the legislative branch and the executive branch deny our citizens rights. There is a reason why the Bill of Rights was placed in such a lofty position in our U.S. Constitution—to protect our citizenry from government and some of the wrong decisions that we make.

It is time to get this right. We have tried this for over a dozen years. Every single state has a right to remedy and they can do it in their own state. Michigan must travel half the continent across to present their difficulties; even in the most ill form, they must traverse halfway across this continent to see a judge—an impartial judge. That is all we are asking—give us that legal remedy that everybody else has. How can you have \$5 billion disbursed across all these states, and for us to be a part of that resolution, we must go to a distant state? We can't even go to a court here in Michigan.

My fellow Senators, I think it is time to put this to rest. Now some of the argument has said that we will bring jobs and drug companies to Michigan. Since my bill was introduced here a year ago, we have seen Pfizer pack up and leave, even though they had this immunity.

So I ask for you to give my amendment full consideration. I ask for your support not only on behalf, but for all the Michigan citizens who have been harmed.

### Introduction and Referral of Bills

Senators Switalski, Jacobs and Gleason introduced

**Senate Bill No. 1063, entitled**

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 3112a (MCL 324.3112a), as amended by 2004 PA 72.

The bill was read a first and second time by title and referred to the Committee on Natural Resources and Environmental Affairs.

Senators Switalski, Jacobs, Gleason and Birkholz introduced

**Senate Bill No. 1064, entitled**

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," (MCL 206.1 to 206.532) by adding section 474.

The bill was read a first and second time by title and referred to the Committee on Finance.

Senators Cassis, Allen, Gilbert, Kuipers, Pappageorge, Van Woerkom, Richardville and Kahn introduced **Senate Bill No. 1065, entitled**

A bill to amend 1967 PA 281, entitled "Income tax act of 1967," by amending sections 520 and 522 (MCL 206.520 and 206.522), section 520 as amended by 1995 PA 245 and section 522 as amended by 2000 PA 41.

The bill was read a first and second time by title and referred to the Committee on Finance.

**House Bill No. 4257, entitled**

A bill to amend 1893 PA 206, entitled "The general property tax act," by amending section 59 (MCL 211.59), as amended by 2006 PA 626.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title and referred to the Committee on Finance.

**House Bill No. 5638, entitled**

A bill to amend 1984 PA 270, entitled "Michigan strategic fund act," by amending section 5 (MCL 125.2005), as amended by 2005 PA 225.

The House of Representatives has passed the bill and ordered that it be given immediate effect.

The bill was read a first and second time by title and referred to the Committee on Economic Development and Regulatory Reform.

**Recess**

Senator Cropsy moved that the Senate recess until 6:00 p.m.

The motion prevailed, the time being 10:55 a.m.

The Senate reconvened at the expiration of the recess and was called to order by the President, Lieutenant Governor Cherry.

By unanimous consent the Senate returned to the order of

**Motions and Communications**

Senator Cropsy moved that rule 3.901 be suspended to allow photographs to be taken from the Senate floor, including the center aisle.

The motion prevailed, a majority of the members serving voting therefor.

**Recess**

Senator Cropsy moved that the Senate recess subject to the call of the Chair.

The motion prevailed, the time being 6:02 p.m.

6:13 p.m.

The Senate was called to order by the President, Lieutenant Governor Cherry.

**Joint Convention**

The Sergeant at Arms announced a committee from the House of Representatives, Representatives Corriveau, Brown, Pearce and Opsommer, who reported that the House was ready to meet with the Senate in Joint Convention.

The President, Lieutenant Governor Cherry, announced that the hour had arrived for the meeting of the two houses in Joint Convention.

Senator Cropsy moved that the Senate recess for the purpose of proceeding to the Hall of the House of Representatives for Joint Convention.

The motion prevailed, the time being 6:15 p.m.

(For proceedings in Joint Convention, see House Journal No. 7, p. 70.)

The Senate reconvened at the expiration of the recess at 8:09 p.m. and pursuant to rule 1.101, in the absence of the Presiding Officers, was called to order by the Secretary of the Senate.

The Secretary of the Senate announced that the Senate had attended the Joint Convention in the Hall of the House of Representatives and had received the State of the State message by Governor Granholm.

By unanimous consent the Senate proceeded to the order of  
**Statements**

Senator Scott asked and was granted unanimous consent to make a statement and moved that the statement be printed in the Journal.

The motion prevailed.

Senator Scott's statement is as follows:

The brilliant abolitionist, statesman, author, and orator, Frederick Douglass, once observed, "Man's greatness consists of his ability to do and the proper application of his power to do the things that need to be done." Every person within this chamber has been gifted with the ability to do so. What is sometimes in question is whether they properly apply that ability to do the things that need to be done.

Insurance reform needs to be done. Thousands of Michigan drivers and homeowners have rallied, written letters, sent e-mails, and spoken of that need. And thousands of others have simply dropped out of the process, choosing to remain among the ranks of the uninsured.

I stand before you today to echo the words of Frederick Douglass and ask you to apply your abilities to the things that need to be done. The first thing that needs to be done is to move my bills.

And let me just interject, after hearing from the Governor this evening, I am hopeful that we are going to have a person who is going to advocate for those who need it. But we can do it right here in these chambers if my colleagues would just move my bills.

## Committee Reports

### COMMITTEE ATTENDANCE REPORT

The Subcommittee on Department of Community Health submitted the following:

Meeting held on Thursday, January 24, 2008, at 1:00 p.m., Room 100, Farnum Building

Present: Senators Kahn (C), Pappageorge, George, Cherry, Barcia and Switalski

Excused: Senator Stamas

## Scheduled Meetings

**Agriculture** - Thursday, January 31, 9:00 a.m., Room 110, Farnum Building (373-1635)

### Appropriations -

#### Subcommittees -

**Community Health Department** - Thursdays, February 14, February 21 and February 28, 1:00 p.m., and March 13, 2:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (373-2768)

**Environmental Quality Department** - Tuesdays, February 5 (CANCELED) and February 12, 3:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-2768)

**Higher Education and Community Colleges, and House Higher Education and Community Colleges Appropriations Subcommittees** - Wednesday, January 30 (CANCELED), and Thursday, January 31, 3:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-2768)

**K-12, School Aid, Education** - Tuesdays, February 19, February 26, March 4 and March 11, 2:00 p.m., Senate Appropriations Room, 3rd Floor, Capitol Building (373-2768)

**State Police and Military Affairs** - Wednesday, February 6, 2:00 p.m., Room 100, Farnum Building (373-2768) (CANCELED)

**Appropriations, Senate/House** - Thursday, February 7, 11:00 a.m., House Appropriations Room, 3rd Floor, Capitol Building (373-6960)

**Banking and Financial Institutions** - Wednesday, January 30, 9:00 a.m., Room 210, Farnum Building (373-3543)

**Economic Development and Regulatory Reform** - Wednesday, January 30, 1:00 p.m., Rooms 402 and 403, Capitol Building (373-7670)

**Finance** - Thursday, January 31, 10:30 a.m. or later immediately following session, Room 110, Farnum Building (373-1758)

**Health Policy** - Wednesday, January 30, 3:00 p.m., Senate Hearing Room, Ground Floor, Boji Tower (373-0793)

**Transportation** - Thursday, January 31, 1:00 p.m., Rooms 402 and 403, Capitol Building (373-7708)

Senator Cropsey moved that the Senate adjourn.  
The motion prevailed, the time being 8:12 p.m.

The Secretary of the Senate declared the Senate adjourned until Wednesday, January 30, 2008, at 10:00 a.m.

CAROL MOREY VIVENTI  
Secretary of the Senate